

ATTACHMENT A
Remarks

Claims 1-20 stand pending in the present application. By this Amendment, Applicant has amended claims 1, 2, 8, 9, 13, 14 and 15 and added new claim 20. Applicant respectfully submits that the application is in condition for allowance based on the discussion which follows.

Claims 8, 13 and 15 were rejected under 35 U.S.C. § 112, second paragraph for being indefinite for a double inclusion of "two opposing sides". By this Amendment, Applicant has amended claims 8, 13 and 15 to overcome the double inclusion, thereby obviating the 35 U.S.C. § 112, second paragraph rejection to the aforementioned claims.

Claims 1, 3-7, 9, 11 and 12 were rejected under 35 U.S.C. § 102(b) as being anticipated by Steckert U.S. Patent No. 3,221,976 (hereinafter Steckert); claims 1, 4, 5, 6, 9 and 11 were rejected as being anticipated by Fritz et al. U.S. Patent No. 5,328,082 (hereinafter Fritz); claims 1, 7 and 9 were rejected as being anticipated by Culbreth U.S. Patent No. 4,921,105 (hereinafter Culbreth); claims 1, 6, 7 and 9 were rejected as being anticipated by Tiefry; claims 1, 4-6, 9 and 11 were rejected as being anticipated by Deger; and claims 1, 2, 4-7, 9-11, 14, 16, 18 and 19 were rejected as being anticipated by Flood.

By this Amendment, in order to more clearly recite Applicant's invention, Applicant has amended independent claims 1, 9 and 14. Applicant respectfully submits that the claimed invention is distinguishable from the aforementioned prior art references.

With regard to claim 1, the present invention now is directed to a food storage and dispensing container having an opening in the form of a downwardly extending U-shaped path and having a flap forming an opening having an area of at least 30% of the side with the flap and permitting a user's arm to pass through the opening. With regard to claim 9 and 14, the food package storage and dispensing container includes a downwardly extending U-shaped path which terminates within a bottom third of the side having the opening.

The prior art of record fails to anticipate the present food package storage and dispensing container as now claimed. With regard to Steckert, Steckert fails to teach or suggest a container with an opening for a plurality of individual packages in which the opening is at least 30% of the side having the opening and allows a user to extend his or her hand and arm through the opening as recited in claim 1. Further Steckert fails to teach or suggest an opening which terminates within a bottom third of the side having the opening as recited in claims 9 and 14. Accordingly, Steckert fails to teach or suggest the claimed container.

With regard to Fritz, Fritz fails to teach or suggest a container having an opening formed by a flap which allows one's hand and arm to extend through the opening to remove individual items or an opening which is at least 30% that of the side.

With regard to Culbreth, Culbreth fails to disclose a container having an opening of (1) at least 30% that of the side, or (2) of sufficient size to allow one's hand and arm to extend through the opening to reach the bottom of the container or (3) extending to within a bottom third of the side.

Deger fails to disclose a container having a flap forming an opening which is at least 30% of the side or an opening of sufficient size to allow one's arm to extend through the opening to reach the contents inside as Deger is specifically directed to a spaghetti box with an accordingly small size opening which is too small for one's hand and arm to pass through.

Flood fails to teach or suggest a flap forming an opening which is at least 30% of the side or an opening which extends to within a bottom third of the side.

In addition, the claimed package is not obvious from the aforementioned references as the claimed invention provides advantages and benefits not obvious in view of the prior art. With regard to the size of the opening which the prior art fails to teach, the present opening allows for one's arm to extend into the container to retrieve all individual items from inside the container. In addition, having the opening be at least 30% of the side more easily allows one to retrieve items from inside the container.

Further, with the opening extending to within lower third of the side, one is easily able to remove food items from the bottom of the container. Conversely, the prior art fails to appreciate the benefit of having an opening of sufficient size and extending to a bottom third of the container to allow a user to reach one's hand and arm through the opening to remove individual items. For example, Flood discloses a container with a flap located near the top of the carton. Unlike the present container, in the Flood carton, the user must reach in and down to remove individual items. However, in the present container, a user can reach one's hand easily through a lower portion of the container to remove items without having to reach in and down as would be required in the Flood

carton. Thus, the present container allows one to more easily remove all items from the container.

Based on the foregoing, Applicant respectfully submits that the presently claimed invention is not anticipated or obvious in view of the prior art of record.

In view of the foregoing, Applicant respectfully submits that the present application is now in condition for allowance.

END REMARKS